

LEGISLATIVE BILL 928

Approved by the Governor April 21, 2008

Introduced by Johnson, 37; McDonald, 41.

FOR AN ACT relating to public health and welfare; to amend sections 30-2483, 71-5830.01, 81-653, 81-655, and 81-659, Reissue Revised Statutes of Nebraska, sections 68-909, 71-810, 71-818, 81-656, and 81-660, Revised Statutes Cumulative Supplement, 2006, sections 38-101, 38-711, 38-1901, 38-1902, 38-1907, 38-1915, 38-3321, 43-4001, 68-949, 71-1910, 71-2619, 71-2620, 71-2621, 71-3503, 71-3505, 71-3507, 71-3508.03, 71-3517, 71-3519, 71-5306, 81-654, 81-657, and 81-664, Revised Statutes Supplement, 2007, and section 71-7608, Revised Statutes Supplement, 2007, as amended by section 7, Legislative Bill 606, One Hundredth Legislature, Second Session, 2008; to require notice of appointment of a personal representative as prescribed; to provide for the performance of collaborative animal health care tasks under the Uniform Credentialing Act as prescribed; to provide additional functions for certified registered nurse anesthetists; to define and redefine terms; to change provisions relating to medical radiographers, licensing and registration requirements under the Medical Radiography Practice Act and the Radiation Control Act, laboratories, and collection and use of fees; to change membership provisions of the Children's Behavioral Health Task Force; to change reporting requirements under the Medical Assistance Act; to rename, extend, and change membership and duties of the Behavioral Health Oversight Commission of the Legislature; to exempt certain recreational facilities from the Child Care Licensing Act; to provide for fingerprinting and a background check under the Radiation Control Act; to change an exemption from certificate of need requirements; to change provisions relating to the Nebraska Tobacco Settlement Trust Fund; to name an act and change and eliminate provisions relating to the brain injury registry; to repeal the Hepatitis C Education and Prevention Act; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 71-545, 71-546, 71-547, 71-548, 71-549, 71-550, and 81-661, Revised Statutes Supplement, 2007; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 30-2483, Reissue Revised Statutes of Nebraska, is amended to read:

30-2483 Unless notice has already been given under this article and except when an appointment of a personal representative is made pursuant to subdivision (4) of section 30-2408, the clerk of the court upon the appointment of a personal representative shall publish a notice once a week for three successive weeks in a newspaper of general circulation in the county announcing the appointment and the address of the personal representative, and notifying creditors of the estate to present their claims within two months after the date of the first publication of the notice or be forever barred. The first publication shall be made within thirty days after the appointment. The party instituting or maintaining the proceeding or his or her attorney is required to mail the published notice and give proof thereof in accordance with section 25-520.01. If the decedent was fifty-five years of age or older or resided in a medical institution as defined in subsection (1) of section 68-919, the notice shall also be mailed to the Department of Health and Human Services with the decedent's social security number and, if available upon reasonable investigation, the name and social security number of the decedent's spouse if such spouse is deceased.

Sec. 2. Section 38-101, Revised Statutes Supplement, 2007, is amended to read:

38-101 Sections 38-101 to 38-1,139 and section 3 of this act and the following practice acts shall be known and may be cited as the Uniform Credentialing Act:

- (1) The Advanced Practice Registered Nurse Practice Act;
- (2) The Alcohol and Drug Counseling Practice Act;
- (3) The Athletic Training Practice Act;
- (4) The Audiology and Speech-Language Pathology Practice Act;
- (5) The Certified Nurse Midwifery Practice Act;
- (6) The Certified Registered Nurse Anesthetist Practice Act;
- (7) The Chiropractic Practice Act;

- (8) The Clinical Nurse Specialist Practice Act;
 (9) The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;
 (10) The Dentistry Practice Act;
 (11) The Emergency Medical Services Practice Act;
 (12) The Environmental Health Specialists Practice Act;
 (13) The Funeral Directing and Embalming Practice Act;
 (14) The Hearing Aid Instrument Dispensers and Fitters Practice Act;
 (15) The Licensed Practical Nurse-Certified Practice Act;
 (16) The Massage Therapy Practice Act;
 (17) The Medical Nutrition Therapy Practice Act;
 (18) The Medical Radiography Practice Act;
 (19) The Medicine and Surgery Practice Act;
 (20) The Mental Health Practice Act;
 (21) The Nurse Practice Act;
 (22) The Nurse Practitioner Practice Act;
 (23) The Nursing Home Administrator Practice Act;
 (24) The Occupational Therapy Practice Act;
 (25) The Optometry Practice Act;
 (26) The Perfusion Practice Act;
 (27) The Pharmacy Practice Act;
 (28) The Physical Therapy Practice Act;
 (29) The Podiatry Practice Act;
 (30) The Psychology Practice Act;
 (31) The Respiratory Care Practice Act;
 (32) The Veterinary Medicine and Surgery Practice Act; and
 (33) The Water Well Standards and Contractors' Practice Act.

If there is any conflict between any provision of sections 38-101 to 38-1,139 and any provision of a practice act, the provision of the practice act shall prevail.

The Revisor of Statutes shall assign the Uniform Credentialing Act, including the practice acts enumerated in subdivisions (1) through (32) of this section, to consecutive articles within Chapter 38.

Sec. 3. Any person who holds a valid credential in the State of Nebraska in a health care profession or occupation regulated under the Uniform Credentialing Act may consult with a licensed veterinarian who has contracted with or is employed by an accredited zoological park or garden regarding an animal on behalf of such zoological park or garden or perform collaborative animal health care tasks on an animal under the care of such veterinarian for such zoological park or garden if all such tasks are performed under the immediate supervision of such veterinarian. Engaging in such conduct is hereby authorized and shall not be considered a part of the credential holder's scope of practice or a violation of the credential holder's scope of practice.

Sec. 4. Section 38-711, Revised Statutes Supplement, 2007, is amended to read:

38-711 (1) The determination and administration of total anesthesia care shall be performed by the certified registered nurse anesthetist or a nurse anesthetist temporarily licensed pursuant to section 38-708 in consultation and collaboration with and with the consent of the licensed practitioner.

(2) The following duties and functions shall be considered as specific expanded role functions of the certified registered nurse anesthetist:

- (a) Preanesthesia evaluation including physiological studies to determine proper anesthetic management and obtaining informed consent;
- (b) Selection and application of appropriate monitoring devices;
- (c) Selection and administration of anesthetic techniques;
- (d) Evaluation and direction of proper postanesthesia management and dismissal from postanesthesia care; ~~and~~

(e) Evaluation and recording of postanesthesia course of patients; ~~and-~~

(f) Use of fluoroscopy in conjunction with a licensed medical radiographer in connection with the performance of authorized duties and functions upon (i) the successful completion of appropriate education and training as approved jointly by the department and the board and promulgated by the department in rules and regulations pursuant to section 71-3508 and (ii) a determination regarding the scope and supervision of such use consistent with subsection (3) of this section.

(3) The determination of other duties that are normally considered medically delegated duties to the certified registered nurse anesthetist or to a nurse anesthetist temporarily licensed pursuant to section 38-708 shall be the joint responsibility of the governing board of the hospital, medical

staff, and nurse anesthetist personnel of any duly licensed hospital or, if in an office or clinic, the joint responsibility of the duly licensed practitioner and nurse anesthetist. All such duties, except in cases of emergency, shall be in writing in the form prescribed by hospital or office policy.

Sec. 5. Section 38-1901, Revised Statutes Supplement, 2007, is amended to read:

38-1901 Sections 38-1901 to 38-1920 and sections 8, 9, 11, and 12 of this act shall be known and may be cited as the Medical Radiography Practice Act.

Sec. 6. Section 38-1902, Revised Statutes Supplement, 2007, is amended to read:

38-1902 For purposes of the Medical Radiography Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1903 to 38-1913 and sections 8 and 9 of this act apply.

Sec. 7. Section 38-1907, Revised Statutes Supplement, 2007, is amended to read:

38-1907 Medical radiographer means a person licensed to practice medical radiography pursuant to subsection (1) of section 38-1915 to practice medical radiography.

Sec. 8. Limited computed tomography radiographer means a person licensed pursuant to section 11 of this act to practice medical radiography restricted to computed tomography.

Sec. 9. Nuclear medicine technologist means a person who meets the requirements for training and experience for nuclear medicine technology under the Radiation Control Act and the rules and regulations adopted and promulgated under the act.

Sec. 10. Section 38-1915, Revised Statutes Supplement, 2007, is amended to read:

38-1915 (1) A person licensed by the department, with the recommendation of the board, as a medical radiographer may practice medical radiography on any part of the human anatomy for interpretation by and under the direction of a licensed practitioner, including computed tomography but excluding interpretative fluoroscopic procedures, and may use fluoroscopy in conjunction with a certified registered nurse anesthetist as authorized in section 38-711.

(2) An applicant for a license as a medical radiographer shall:

(a) Complete an educational program in radiography approved by the board pursuant to subsection (1) of section 38-1918;

(b) Complete an application in accordance with the Uniform Credentialing Act; and

(c) Successfully complete an examination approved by the board.

~~(2)~~ (3) Presentation of proof of registration in radiography with the American Registry of Radiologic Technologists is proof of meeting the requirements of subdivisions ~~(1)~~(a) (2)(a) and (c) of this section.

Sec. 11. (1) A person licensed by the department, with the recommendation of the board, as a limited computed tomography radiographer may practice medical radiography restricted to computed tomography. An applicant for a license as a limited computed tomography radiographer shall:

(a) Complete an application in accordance with the Uniform Credentialing Act;

(b) Be certified by (i) the Nuclear Medicine Technology Certification Board or (ii) the American Registry of Radiologic Technologists in nuclear medicine technology; and

(c) Be certified by the American Registry of Radiologic Technologists in computed tomography.

(2) A nuclear medicine technologist may perform computed tomography without being licensed under the Medical Radiography Practice Act if such practice is limited to X-rays produced by a combination nuclear medicine-computed tomography system and administered as an integral part of a nuclear medicine procedure that uses a computed tomography protocol for purposes of attenuation correction and anatomical localization only and if the nuclear medicine technologist has received documented device-specific training on the combination nuclear medicine-computed tomography system.

Sec. 12. The requirements of section 11 of this act do not apply to a student while enrolled and participating in an educational program in nuclear medicine technology who, as part of the educational program, applies X-rays to humans using a computed tomography system while under the supervision of the licensed practitioners, medical radiographers, or limited computed tomography radiographers associated with the educational program. A person registered by the Nuclear Medicine Technology Certification Board

or the American Registry of Radiologic Technologists in nuclear medicine technology may apply for a license as a temporary limited computed tomography radiographer. Temporary limited computed tomography radiographer licenses shall expire twenty-four months after issuance and shall not be renewed. Persons licensed as temporary limited computed tomography radiographers shall be permitted to perform medical radiography restricted to computed tomography while under the direct supervision and in the physical presence of licensed practitioners, medical radiographers, or limited computed tomography radiographers.

Sec. 13. Section 38-3321, Revised Statutes Supplement, 2007, is amended to read:

38-3321 No person may practice veterinary medicine and surgery in the state who is not a licensed veterinarian. The Veterinary Medicine and Surgery Practice Act shall not be construed to prohibit:

(1) An employee of the federal, state, or local government from performing his or her official duties;

(2) A person who is a student in a veterinary school from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian;

(3) A person who is a student in an approved veterinary technician program from performing duties or actions assigned by his or her instructors or from working under the direct supervision of a licensed veterinarian or a licensed veterinary technician;

(4) Any merchant or manufacturer from selling feed or feeds whether medicated or nonmedicated;

(5) A veterinarian regularly licensed in another state from consulting with a licensed veterinarian in this state;

(6) Any merchant or manufacturer from selling from his or her established place of business medicines, appliances, or other products used in the prevention or treatment of animal diseases or any merchant or manufacturer's representative from conducting educational meetings to explain the use of his or her products or from investigating and advising on problems developing from the use of his or her products;

(7) An owner of livestock or a bona fide farm or ranch employee from performing any act of vaccination, surgery, pregnancy testing, or the administration of drugs in the treatment of domestic animals under his or her custody or ownership nor the exchange of services between persons or bona fide employees who are principally farm or ranch operators or employees in the performance of these acts;

(8) A member of the faculty of a veterinary school or veterinary science department from performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or veterinary science department or in connection with a continuing competency activity;

(9) Any person from selling or applying any pesticide, insecticide, or herbicide;

(10) Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals;

(11) Any person from treating or in any manner caring for domestic chickens, turkeys, or waterfowl, which are specifically exempted from the Veterinary Medicine and Surgery Practice Act; ~~or~~

(12) Any person from performing dehorning or castrating livestock, not to include equidae. For purposes of the Veterinary Medicine and Surgery Practice Act, castration shall be limited to the removal or destruction of male testes; ~~or-~~

(13) Any person who holds a valid credential in the State of Nebraska in a health care profession or occupation regulated under the Uniform Credentialing Act from consulting with a licensed veterinarian who has contracted with or is employed by an accredited zoological park or garden regarding an animal on behalf of such zoological park or garden or performing collaborative animal health care tasks on an animal under the care of such veterinarian for such zoological park or garden if all such tasks are performed under the immediate supervision of such veterinarian.

Sec. 14. Section 43-4001, Revised Statutes Supplement, 2007, is amended to read:

43-4001 (1) The Children's Behavioral Health Task Force is created. The task force shall consist of the following members:

(a) The chairperson of the Health and Human Services Committee of the Legislature or another member of the committee as his or her designee;

(b) The chairperson of the Appropriations Committee of the Legislature or another member of the committee as his or her designee;

~~(c) The chairperson of the Behavioral Health Oversight Commission of~~

~~the Legislature;~~

~~(d) (c) Two providers of community-based behavioral health services to children, appointed by the chairperson of the Health and Human Services Committee of the Legislature;~~

~~(e) (d) One regional administrator appointed under section 71-808, appointed by the chairperson of the Health and Human Services Committee of the Legislature;~~

~~(f) (e) Two representatives of organizations advocating on behalf of consumers of children's behavioral health services and their families, appointed by the chairperson of the Health and Human Services Committee of the Legislature;~~

~~(g) (f) One juvenile court judge, appointed by the Chief Justice of the Supreme Court;~~

~~(h) (g) Two representatives of the Department of Health and Human Services, appointed by the Governor; and~~

~~(i) (h) The Administrator of the Office of Juvenile Services.~~

~~(2) All members shall be appointed within thirty days after May 25, 2007.~~

~~(3) (2) Members of the task force shall serve without compensation but shall be reimbursed from the Nebraska Health Care Cash Fund for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.~~

~~(4) (3) The chairperson of the Behavioral Health Oversight Commission Health and Human Services Committee of the Legislature or his or her designee shall serve as chairperson of the task force. Administrative and staff support for the task force shall be provided by the Health and Human Services Committee of the Legislature and the Appropriations Committee of the Legislature.~~

Sec. 15. Section 68-909, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-909 (1) All contracts, agreements, rules, and regulations relating to the medical assistance program as entered into or adopted and promulgated by the department prior to July 1, 2006, and all provisions of the medicaid state plan and waivers adopted by the department prior to July 1, 2006, shall remain in effect until revised, amended, repealed, or nullified pursuant to law.

(2) Prior to the adoption and promulgation of proposed rules and regulations under section 68-912 or relating to the implementation of medicaid state plan amendments or waivers, the department shall provide a report to the Governor, the Legislature, and the Medicaid Reform Council no later than December 1 before the next regular session of the Legislature summarizing the purpose and content of such proposed rules and regulations and the projected impact of such proposed rules and regulations on recipients of medical assistance and medical assistance expenditures.

(3) The Medicaid Reform Council, no later than thirty days after the date of receipt of any report under subsection (2) of this section, may conduct a public meeting to receive public comment regarding such report. The council shall promptly provide any comments and recommendations regarding such report in writing to the department. Such comments and recommendations shall be advisory only and shall not be binding on the department, but the department shall promptly provide a written response to such comments or recommendations to the council.

(4) The department shall monitor and shall periodically, as necessary, but no less than biennially, report to the Governor, the Legislature, and the Medicaid Reform Council on the implementation of rules and regulations, medicaid state plan amendments, and waivers adopted under the Medical Assistance Act and the effect of such rules and regulations, amendments, or waivers on eligible recipients of medical assistance and medical assistance expenditures.

Sec. 16. Section 68-949, Revised Statutes Supplement, 2007, is amended to read:

68-949 (1) It is the intent of the Legislature that the department implement reforms to the medical assistance program such as those contained in the Medicaid Reform Plan, including (a) an incremental expansion of home and community-based services for aged persons and persons with disabilities consistent with such plan, (b) an increase in care coordination or disease management initiatives to better manage medical assistance expenditures on behalf of high-cost recipients with multiple or chronic medical conditions, and (c) other reforms as deemed necessary and appropriate by the department, in consultation with the committee and the Medicaid Reform Council.

(2) (a) The department shall develop recommendations ~~relating to the provision of health care and related services for medicaid-eligible children under the state children's health insurance program as allowed under~~

Title XIX and Title XXI of the federal Social Security Act. Such study and recommendations shall include, but not be limited to, the organization and administration of such program, the establishment of premiums, copayments, and deductibles under such program, and the establishment of limits on the amount, scope, and duration of services offered to recipients under such program. based on a comprehensive analysis of various options available to the state under applicable federal law for the provision of medical assistance to persons with disabilities who are employed, including persons with a medically improved disability, to enhance and replace current eligibility provisions contained in subdivision (8) of section 68-915.

(b) The department shall provide a draft report of such recommendations to the committee and the Medicaid Reform Council no later than October 1, 2007, 2008. The council shall conduct a public meeting no later than October 15, 2007, 2008, to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the department and the committee no later than November 1, 2007, 2008. The department shall provide a final report of such recommendations to the Governor, the committee, and the council no later than December 1, 2007, 2008.

(3)(a) The department shall develop recommendations for further modification or replacement of the defined benefit structure of the medical assistance program. Such recommendations shall be consistent with the public policy in section 68-905 and shall consider the needs and resources of low-income Nebraska residents who are eligible or may become eligible for medical assistance, the experience and outcomes of other states that have developed and implemented such changes, and other relevant factors as determined by the department.

(b) The department shall provide a draft report of such recommendations to the committee and the Medicaid Reform Council no later than October 1, 2008. The council shall conduct a public meeting no later than October 15, 2008, to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the department and the committee no later than November 1, 2008. The department shall provide a final report of such recommendations to the Governor, the committee, and the council no later than December 1, 2008.

Sec. 17. Section 71-810, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-810 (1) The division shall encourage and facilitate the statewide development and provision of an appropriate array of community-based behavioral health services and continuum of care for the purposes of (a) providing greater access to such services and improved outcomes for consumers of such services and (b) reducing the necessity and demand for regional center behavioral health services.

(2) The division may reduce or discontinue regional center behavioral health services only if (a) appropriate community-based services or other regional center behavioral health services are available for every person receiving the regional center services that would be reduced or discontinued, (b) such services possess sufficient capacity and capability to effectively replace the service needs which otherwise would have been provided at such regional center, and (c) no further commitments, admissions, or readmissions for such services are required due to the availability of community-based services or other regional center services to replace such services.

(3) The division shall notify the Governor and the Legislature of any intended reduction or discontinuation of regional center services under this section. Such notice shall include detailed documentation of the community-based services or other regional center services that are being utilized to replace such services. The Behavioral Health Oversight Commission of the Legislature shall review such documentation and shall report to the Governor and the Health and Human Services Committee of the Legislature whether, in its opinion, the requirements of subsection (2) of this section have been met with respect to such intended reduction or discontinuation of regional center services and shall enumerate the criteria used by the commission in making such determination.

(4) As regional center services are reduced or discontinued under this section, the division shall make appropriate corresponding reductions in regional center personnel and other expenditures related to the provision of such services. All funding related to the provision of regional center services that are reduced or discontinued under this section shall be reallocated and expended by the division for purposes related to the statewide development and provision of community-based services.

(5) The division may establish state-operated community-based services to replace regional center services that are reduced or discontinued under this section. The division shall provide regional center employees with appropriate training and support to transition such employees into positions as may be necessary for the provision of such state-operated services.

(6) When the occupancy of the licensed psychiatric hospital beds of any regional center reaches twenty percent or less of its licensed psychiatric hospital bed capacity on March 15, 2004, the division shall notify the Governor and the Legislature of such fact. Upon such notification, the division, with the approval of a majority of members of the Executive Board of the Legislative Council, may provide for the transfer of all remaining patients at such center to appropriate community-based services or other regional center services pursuant to this section and cease the operation of such regional center.

(7) The division, in consultation with each regional behavioral health authority, shall establish and maintain a data and information system for all persons receiving state-funded behavioral health services under the Nebraska Behavioral Health Services Act. Information maintained by the division shall include, but not be limited to, (a) the number of persons receiving regional center services, (b) the number of persons ordered by a mental health board to receive inpatient or outpatient treatment and receiving regional center services, (c) the number of persons ordered by a mental health board to receive inpatient or outpatient treatment and receiving community-based services, (d) the number of persons voluntarily admitted to a regional center and receiving regional center services, (e) the number of persons waiting to receive regional center services, (f) the number of persons waiting to be transferred from a regional center to community-based services or other regional center services, (g) the number of persons discharged from a regional center who are receiving community-based services or other regional center services, and (h) the number of persons admitted to behavioral health crisis centers. Each regional behavioral health authority shall provide such information as requested by the division and necessary to carry out this subsection. The division shall submit reports of such information to the Governor and the Legislature on a quarterly basis beginning July 1, 2005, in a format which does not identify any person by name, address, county of residence, social security number, or other personally identifying characteristic.

(8) The provisions of this section are self-executing and require no further authorization or other enabling legislation.

Sec. 18. Section 71-818, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-818 ~~(1)~~ (1)(a) The Behavioral Health Oversight Commission ~~of the Legislature~~ is created. ~~The~~

(b) Until June 30, 2008, the commission shall consist of not more than twenty-five members appointed by the chairperson of the Health and Human Services Committee of the Legislature and confirmed by a majority of members of the committee, and members - ~~Members~~ of the commission shall ~~(a)~~ (i) include, but not be limited to, representatives of the Legislature, consumers and consumer advocacy organizations, behavioral health providers, the communities of Norfolk and Hastings, state employees, regional behavioral health authorities, mental health boards, and law enforcement, ~~(b)~~ (ii) possess a demonstrated interest and commitment and specialized knowledge, experience, or expertise relating to the provision of behavioral health services in the State of Nebraska, and ~~(c)~~ (iii) be broadly representative of all the behavioral health regions.

(c) Beginning on July 1, 2008, the members of the commission shall possess a demonstrated interest and commitment and specialized knowledge, experience, or expertise relating to the provision of behavioral health services in the State of Nebraska, and the commission shall consist of twelve members appointed by the Governor as follows: (i) One consumer of behavioral health services, (ii) one consumer advocate of behavioral health services, (iii) three providers of community-based behavioral health services, including one representative from each congressional district, (iv) three regional behavioral health authority administrators, including one from each congressional district, (v) one representative of the Norfolk Regional Center, (vi) one representative of the Lincoln Regional Center, (vii) one representative of the city of Norfolk, and (viii) one representative of the city of Hastings.

(d) Members of the commission shall serve without compensation but shall be reimbursed from the Nebraska Health Care Cash Fund for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

~~(2)~~ The (2)(a) Until June 30, 2008, the commission, under the

direction of and in consultation with the Health and Human Services Committee of the Legislature, shall oversee and support implementation of the Nebraska Behavioral Health Services Act and shall administer such funds as appropriated by the Legislature from the Nebraska Health Care Cash Fund for such purpose, and the ~~The~~ commission may employ staff, enter into contracts, establish and utilize task forces and subcommittees, and perform such other activities as necessary and appropriate to carry out its duties under this section.

(b) Beginning on July 1, 2008, the commission shall be responsible to the division and shall oversee and support implementation of the Nebraska Behavioral Health Services Act. To carry out this duty, the commission shall (i) conduct regular meetings, (ii) provide advice and assistance to the division relating to the implementation of the act, (iii) promote the interests of consumers and their families, (iv) provide reports as requested by the division, and (v) engage in such other activities as directed or authorized by the division.

(3) To assist the commission in its role of oversight, the division shall provide the commission with a quarterly report regarding the implementation of the Nebraska Behavioral Health Services Act.

~~(3)~~ (4) The commission and this section terminate on June 30, 2008-2009.

Sec. 19. Section 71-1910, Revised Statutes Supplement, 2007, is amended to read:

71-1910 For purposes of the Child Care Licensing Act, unless the context otherwise requires:

(1) Department means the Department of Health and Human Services; and

(2) (a) Program means the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and includes any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-1104, or preschool or nursery school.

(b) Program does not include casual care at irregular intervals, a recreation camp as defined in section 71-3101, a recreation facility, center, or program operated by a political or governmental subdivision pursuant to the authority provided in section 13-304, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-318, services provided only to school-age children during the summer and other extended breaks in the school year, or foster care as defined in section 71-1901.

Sec. 20. Section 71-2619, Revised Statutes Supplement, 2007, is amended to read:

71-2619 (1) The Department of Health and Human Services may by regulation establish fees to defray the costs of providing specimen containers, shipping outfits, and related supplies and fees to defray the costs of certain laboratory examinations as requested by individuals, firms, corporations, or governmental agencies in the state. Fees for the provision of certain classes of shipping outfits or specimen containers shall be no more than the actual cost of materials, labor, and delivery. Fees for the provision of shipping outfits may be made when no charge is made for service.

(2) Fees may be established by regulation for chemical or microbiological examinations of various categories of water samples. Fees established for examination of water to ascertain qualities for domestic, culinary, and associated uses shall be set to defray no more than the actual cost of the tests in the following categories: (a) Inorganic chemical assays; (b) organic pollutants; and (c) bacteriological examination to indicate sanitary quality as coliform density by membrane filter test or equivalent test.

(3) Fees for examinations of water from lakes, streams, impoundments, or similar sources, from wastewaters, or from ground water for industrial or agricultural purposes may be charged in amounts established by regulation but shall not exceed one and one-half times the limits set by regulation for examination of domestic waters.

(4) Fees may be established by regulation for chemical or microbiological examinations of various categories of samples to defray no more than the actual cost of testing. Such fees may be charged for:

(a) Any specimen submitted for radiochemical analysis or characterization;

(b) Any material submitted for chemical characterization or quantitation; and

(c) Any material submitted for microbiological characterization.

(5) Fees may be established by regulation for the examinations of certain categories of biological and clinical specimens to defray no more than the actual costs of testing. Such fees may be charged for examinations pursuant to law or regulation of:

(a) Any specimen submitted for chemical examination for assessment of health status or functional impairment;

(b) Any specimen submitted for microbiological examination which is not related to direct human contact with the microbiological agent; and

(c) A specimen submitted for microbiological examination or procedure by an individual, firm, corporation, or governmental unit other than the department.

(6) The department shall not charge fees for tests that include microbiological isolation, identification examination, or other laboratory examination for the following:

(a) A contagious disease when the department is authorized by law or regulation to directly supervise the prevention, control, or surveillance of such contagious disease;

(b) Any emergency when the health of the people of any part of the state is menaced or exposed pursuant to section 71-502; and

(c) When adopting or enforcing special quarantine and sanitary regulations authorized by the department.

(7) Combinations of different tests or groups of tests submitted together may be offered at rates less than those set for individual tests as allowed in this section and shall defray the actual costs.

(8) Fees may be established by regulation to defray no more than the actual costs of ~~conducting qualifying inspections in order to make certifying laboratories, inspecting laboratories, and making laboratory agreements between the department and laboratories other than the Department of Health and Human Services, Division of Public Health, Environmental Laboratory for the purpose of conducting analyses of drinking water as prescribed in section 71-5306. The inspection fees shall be collected on an annual schedule from those laboratories which enter into an agreement with the department for the purpose of conducting laboratory analyses of water. Such fees shall not exceed the amount in the following categories:~~ (a) Bacteriological examination agreement, one hundred and fifty dollars; (b) inorganic chemical analyses agreement, one hundred dollars; (c) heavy metal analyses agreement, two hundred dollars; (d) organic chemical analyses agreement, two hundred dollars; and (e) radiochemical analyses agreement, two hundred dollars. For each laboratory applying for certification, fees shall include (a) an annual fee not to exceed one thousand eight hundred dollars per laboratory and (b) an inspection fee not to exceed three thousand dollars per certification period for each laboratory located in this state.

(9) All fees collected pursuant to this section shall be deposited ~~in the state treasury and credited~~ remitted to the State Treasurer for credit to the Health and Human Services Cash Fund.

Sec. 21. Section 71-2620, Revised Statutes Supplement, 2007, is amended to read:

71-2620 The Division of Public Health of the Department of Health and Human Services may enter into agreements, not exceeding one year in duration, with any other governmental agency relative to the provision of certain laboratory tests and services to the agency. Such services shall be provided as stipulated in the agreement and for such fee, either lump sum or by the item, as is mutually agreed upon and as complies with the provisions of section 71-2619. All laboratories performing human genetic testing for clinical diagnosis and treatment purposes shall be accredited by the College of American Pathologists or by any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the college.

Sec. 22. Section 71-2621, Revised Statutes Supplement, 2007, is amended to read:

71-2621 All fees collected for laboratory tests and services pursuant to sections 71-2619 and 71-2620 shall be ~~paid into the state treasury and by~~ remitted to the State Treasurer credited for credit to the Health and Human Services Cash Fund, which shall be used to partially defray the costs of labor, operations, supplies, and materials in the operations of the Department of Health and Human Services, Division of Public Health, Environmental Laboratory.

Sec. 23. Section 71-3503, Revised Statutes Supplement, 2007, is amended to read:

71-3503 For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the Radiation Control Act;

(8) Department means the Department of Health and Human Services;

(9) Administrator means the administrator of radiation control designated pursuant to section 71-3504;

(10) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(11) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials; or

(c) A license issued to a radon measurement specialist, ~~radon measurement technician~~, radon mitigation specialist, ~~radon mitigation technician~~, radon measurement business, or radon mitigation business;

(12) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

(13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not

include special nuclear material;

(14) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (14) (a) of this section but does not include source material;

(15) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(16) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(17) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(18) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care;

(19) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(20) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(22) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (12) (b) of this section;

(23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner;

(24) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(25) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(26) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(27) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram;

(28) Licensed practitioner means a person licensed to practice

medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(29) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

(30) Licensed facility operator means any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the Department of Environmental Quality; and

(31) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

Sec. 24. Section 71-3505, Revised Statutes Supplement, 2007, is amended to read:

71-3505 Matters relative to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The department shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources and formulate, adopt, promulgate, and repeal rules and regulations which may provide (a) for registration or licensure under section 71-3507 or 71-3509, and (b) for registration or licensure of (i) any other source of radiation, (ii) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, (iii) persons providing services to reduce the effects of sources of radiation, and (iv) persons practicing industrial radiography, and (c) for fingerprinting and a federal criminal background check on persons with unescorted access to radionuclides of concern, as specified by rule, ~~or~~ regulation, or order so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, medical radiographers, limited radiographers, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

(2) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(3) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the control of sources of radiation;

(4) Collect and disseminate health education information relating to

radiation protection;

(5) Make its facilities available so that any person or any agency may request the department to review and comment on plans and specifications of installations submitted by the person or agency with respect to matters of protection and safety for the control of undesirable radiation;

(6) Be empowered to inspect radiation sources and their shieldings and surroundings for the determination of any possible undesirable radiation or violations of rules and regulations adopted and promulgated by the department and provide the owner, user, or operator with a report of any known or suspected deficiencies; and

(7) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual costs of such activities or fifty-three thousand dollars per annum. Commencing July 1, 1997, the accounting division of the Department of Administrative Services shall recommend an inflationary adjustment equivalent which shall be based upon the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, and shall not exceed five percent per annum. Such adjustment shall be applied to the annual fee for nuclear power plants. The fee collected shall be credited to the Health and Human Services Cash Fund. This fee shall be used solely for the purpose of defraying the direct costs of the emergency response and environmental surveillance at Cooper Nuclear Station and Fort Calhoun Station conducted by the department. The department may charge additional fees when mutually agreed upon for services, training, or equipment that are a part of or in addition to matters in this section.

Sec. 25. The department shall adopt and promulgate rules and regulations providing for fingerprinting and a federal criminal background check on persons with unescorted access to radionuclides of concern, as specified by rule, regulation, or order so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government.

This section terminates on December 1, 2008.

Sec. 26. Section 71-3507, Revised Statutes Supplement, 2007, is amended to read:

71-3507 (1) The department shall adopt and promulgate rules and regulations for the issuance, amendment, suspension, and revocation of general and specific licenses. Such licenses shall be for byproduct material, source material, special nuclear material, and radioactive material not under the authority of the federal Nuclear Regulatory Commission and for devices or equipment utilizing such materials. The rules and regulations shall provide:

(a) For written applications for a specific license which include the technical, financial, and other qualifications determined by the department to be reasonable and necessary to protect occupational and public health and safety and the environment;

(b) For additional written statements and inspections, as required by the department, at any time after filing an application for a specific license and before the expiration of the license to determine whether the license should be issued, amended, suspended, or revoked;

(c) That all applications and statements be signed by the applicant or licensee;

(d) The form, terms, and conditions of general and specific licenses;

(e) That no license or right to possess or utilize sources of radiation granted by a license shall be assigned or in any manner disposed of without the written consent of the department; and

(f) That the terms and conditions of all licenses are subject to amendment by rules, regulations, or orders issued by the department.

(2) The department may require registration or licensing of radioactive material not enumerated in subsection (1) of this section in order to maintain compatibility and equivalency with the standards and regulatory programs of the federal government or to protect the occupational and public health and safety and the environment.

(3)(a) The department shall require licensure of persons providing measurement and mitigation services of radon or its decay products in order to protect the occupational and public health and safety and the environment.

(b) The department shall adopt and promulgate rules and regulations establishing education, experience, training, examination, and continuing competency requirements for radon measurement specialists, ~~radon measurement technicians, radon mitigation specialists,~~ and radon mitigation ~~technicians,~~ specialists. Application for such licenses shall be made as provided in the

Uniform Credentialing Act. Such persons shall be credentialed in the same manner as an individual under subsection (1) of section 38-121 and shall be subject to disciplinary action pursuant to section 71-3517. Continuing competency requirements may include, but not be limited to, one or more of the continuing competency activities listed in section 38-145. Any radon measurement technician license issued prior to the operative date of this section shall remain valid as a radon measurement specialist license on and after such date until the date such radon measurement technician license would have expired. Such radon measurement specialist license shall be subject to rules and regulations adopted and promulgated by the department.

(c) The department shall adopt and promulgate rules and regulations establishing staffing, proficiency, quality control, reporting, worker health and safety, equipment, and record-keeping requirements for radon measurement businesses and radon mitigation businesses and mitigation system installation requirements for radon mitigation businesses.

(4) The department may exempt certain sources of radiation or kinds of uses or users from licensing or registration requirements established under the Radiation Control Act when the department finds that the exemption will not constitute a significant risk to occupational and public health and safety and the environment.

(5) The department may provide by rule and regulation for the recognition of other state or federal licenses compatible and equivalent with the standards established by the department for Nebraska licensees.

(6) The department may accept accreditation for an industrial radiographer by a recognized independent accreditation body, a public agency, or the federal Nuclear Regulatory Commission, which has standards that are at least as stringent as those of the State of Nebraska, as evidence that the industrial radiographer complies with the rules and regulations adopted and promulgated pursuant to the act. The department may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that meet this standard.

(7) The department may enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with the act and rules and regulations adopted and promulgated pursuant to the act, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

(8) The department shall cause to be registered with the department such sources of radiation as the department determines to be reasonably necessary to protect occupational and public health and safety and the environment as follows:

(a) The department shall, by public notice, establish a date on or before which date such sources of radiation shall be registered with the department. ~~An~~ and the department shall provide appropriate forms for such registration. Each application for registration shall be either in writing or by electronic means and shall state such information as the department by rules or regulations may determine to be necessary and reasonable to protect occupational and public health and safety and the environment;

(b) Registration of sources of radiation shall be an initial registration with appropriate notification to the department in the case of alteration of equipment, acquisition of new sources of radiation, or the transfer, loss, or destruction of sources of radiation and shall include the registration of persons installing or servicing sources of radiation;

(c) Failure to register or reregister sources of radiation in accordance with rules and regulations adopted and promulgated by the department shall be subject to a fine of not less than fifty dollars nor more than two hundred dollars; and

(d) The department may provide by rule and regulation for reregistration of sources of radiation.

(9) The results of any surveys or inspections of sources of radiation conducted by the department shall be public records subject to sections 84-712 to 84-712.09. In addition, the following information shall be deemed confidential:

(a) The names of individuals in dosimetry reports;

(b) Emergency response procedures which would present a clear threat to security or disclose names of individuals; and

(c) Any other information that is likely to present a clear threat to the security of radioactive material. The department shall make such reports of results of surveys or inspections available to the owner or operator of the source of radiation together with any recommendations of the department regarding deficiencies noted.

(10) The department shall have the right to survey or inspect again

any source of radiation previously surveyed without limitation of the number of surveys or inspections conducted on a given source of radiation.

(11) The department may enter into contracts with persons or corporations to perform the inspection of X-ray radiation-generating equipment or devices which emit radiation from radioactive materials and to aid the department in the administration of the act.

Sec. 27. Section 71-3508.03, Revised Statutes Supplement, 2007, is amended to read:

71-3508.03 (1) The department shall establish by rule and regulation annual fees for the radioactive materials licenses, for inspections of radioactive materials, for the registration and inspection of radiation-generating equipment and other sources of radiation, and for radon measurement and mitigation business licenses and inspections of radon mitigation systems installations under the Radiation Control Act. The annual fee for registration and inspection of X-ray radiation generating equipment used to diagnose conditions in humans or animals shall not exceed seventy four hundred dollars per X-ray machine. The department shall also establish by rule and regulation additional fees for environmental surveillance activities performed by the department to assess the radiological impact of activities conducted by licensees and registrants. Such activities shall not duplicate surveillance programs approved by the federal Nuclear Regulatory Commission and conducted by entities licensed by such commission. No fee shall exceed the actual cost to the department for administering the act. The fees collected shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund and shall be used solely for the purpose of defraying the direct and indirect costs of administering the act. The department shall collect such fees.

(2) The department may, upon application by an interested person or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this subsection may include, but shall not be limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.

(3) When a registrant or licensee fails to pay the applicable fee, the department may suspend or revoke the registration or license or may issue an appropriate order.

(4) The department shall establish and collect fees for licenses for individuals engaged in radon detection, measurement, and mitigation as provided in sections 38-151 to 38-157.

Sec. 28. Section 71-3517, Revised Statutes Supplement, 2007, is amended to read:

71-3517 (1) Any person who violates any of the provisions of the Radiation Control Act shall be guilty of a Class IV misdemeanor.

(2) In addition to the penalty provided in subsection (1) of this section, any person who violates any provision of the Radiation Control Act or any rule, regulation, or order issued pursuant to such act or any term, condition, or limitation of any license or registration certificate issued pursuant to such act shall be subject to:

(a) License revocation, suspension, modification, condition, or limitation;

(b) The imposition of a civil penalty; or

(c) The terms of any appropriate order issued by the department.

(3) Whenever the department proposes to subject a person to the provisions of subsection (2) of this section, the department shall notify the person in writing (a) setting forth the date, facts, and nature of each act or omission with which the person is charged, (b) specifically identifying the particular provision or provisions of the section, rule, regulation, order, license, or registration certificate involved in the violation, and (c) of the sanction or order to be imposed. If a civil penalty is imposed, the notice shall include a statement that it can be collected by civil action. The notice shall be delivered to each alleged violator by personal service, by certified or registered mail to his or her last-known address, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated. The sanction or order in the notice shall become final thirty days after the mailing of the notice unless the applicant, registrant, or licensee, within the thirty-day period, requests, in writing, a hearing before the department. If the notice is served by personal service or publication, the sanction or order shall become final thirty days after completion of such service unless the applicant, registrant, or licensee, within the thirty-day period, requests, in writing, a hearing before the department.

(4) Hearings held pursuant to subsection (3) of this section shall

be held in accordance with rules and regulations adopted and promulgated by the department and shall provide for the alleged violator to present such evidence as may be proper. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations of the department. A full and complete record shall be kept of the proceedings.

(5) Following the hearing, the department shall determine whether the charges are true or not, and if true, the department may (a) issue a declaratory order finding the charges to be true, (b) revoke, suspend, modify, condition, or limit the license, (c) impose a civil penalty in an amount not to exceed ten thousand dollars for each violation, or (d) enter an appropriate order. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty and the amount of the penalty shall be based on the severity of the violation. A copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either certified or registered mail to the alleged violator. The decision may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(6) Any civil penalty assessed and unpaid under subsection (5) of this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property. The department shall, within thirty days from receipt, remit any collected civil penalty to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(7) In addition to the provisions of this section, radon measurement specialists, ~~radon measurement technicians, radon mitigation specialists,~~ and radon mitigation ~~technicians~~ specialists shall be subject to the reporting, investigatory, and disciplinary provisions of sections 38-176 to 38-185, 38-1,106, 38-1,109 to 38-1,126, and 38-1,137 to 38-1,139. In addition to the grounds for disciplinary action found in the Uniform Credentialing Act, a license issued to a specialist ~~or technician~~ may be disciplined for any violation of the Radiation Control Act or the rules and regulations adopted and promulgated under the act.

Sec. 29. Section 71-3519, Revised Statutes Supplement, 2007, is amended to read:

71-3519 Sections 71-3501 to 71-3520 and section 25 of this act shall be known and may be cited as the Radiation Control Act.

Sec. 30. Section 71-5306, Revised Statutes Supplement, 2007, is amended to read:

71-5306 (1) To carry out the provisions and purposes of the Nebraska Safe Drinking Water Act, the director may:

(a) Enter into agreements, contracts, or cooperative arrangements, under such terms as are deemed appropriate, with other state, federal, or interstate agencies or with municipalities, educational institutions, local health departments, or other organizations, entities, or individuals;

(b) Require all laboratory analyses to be performed at the Department of Health and Human Services, Division of Public Health, Environmental Laboratory, or at any other certified laboratory which has entered into an agreement with the department therefor, and establish and collect fees for making laboratory analyses of water samples pursuant to sections 71-2619 to 71-2621, except that subsection (6) of section 71-2619 shall not apply for purposes of the Nebraska Safe Drinking Water Act. Inspection fees for making other laboratory agreements shall be established and collected pursuant to sections 71-2619 to 71-2621;

(c) Certify laboratories performing tests on water that is intended for human consumption. The director may establish, through rules and regulations, standards for certification. Such standards may include requirements for staffing, equipment, procedures, and methodology for conducting laboratory tests, quality assurance and quality control procedures, and communication of test results. Such standards shall be consistent with requirements for performing laboratory tests established by the federal Environmental Protection Agency to the extent such requirements are consistent with state law. The director may accept accreditation by a recognized independent accreditation body, public agency, or federal program which has standards that are at least as stringent as those established pursuant to this section. The director may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that may be accepted as evidence that a laboratory meets the standards for certification. Inspection fees and fees for certifying other laboratories shall be established and collected to defray the cost of the inspections and

certification as provided in sections 71-2619 to 71-2621;

(d) Receive financial and technical assistance from an agency of the federal government or from any other public or private agency;

(e) Enter the premises of a public water system at any time for the purpose of conducting monitoring, making inspections, or collecting water samples for analysis;

(f) Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of the Nebraska Safe Drinking Water Act, including entering into agreements with designated agents which shall perform specifically delegated responsibilities and possess specifically delegated powers;

(g) Require the owner and operator of a public water system to establish and maintain records, make reports, and provide information as the department may reasonably require by regulation to enable it to determine whether such owner or operator has acted or is acting in compliance with the Nebraska Safe Drinking Water Act and rules and regulations adopted pursuant thereto. The department or its designated agent shall have access at all times to such records and reports; and

(h) Assess by regulation a fee for any review of plans and specifications pertaining to a public water system governed by section 71-5305 in order to defray no more than the actual cost of the services provided.

(2) All such fees collected by the department shall be remitted to the State Treasurer for credit to the Safe Drinking Water Act Cash Fund, which is hereby created. Such fund shall be used by the department for the purpose of administering the Nebraska Safe Drinking Water Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 31. Section 71-5830.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5830.01 Notwithstanding any other provisions of the Nebraska Health Care Certificate of Need Act, a certificate of need is not required for:

(1) A change in classification between an intermediate care facility, a nursing facility, or a skilled nursing facility;

(2) A project of a county in which is located a city of the metropolitan class for which a bond issue has been approved by the electorate of such county on or after January 1, 1994; and

(3) A project of a federally recognized Indian tribe to be located on tribal lands within the exterior boundaries of the State of Nebraska where (a) a determination has been made by the tribe's governing body that the cultural needs of the tribe's members cannot be adequately met by existing facilities if such project has been approved by the tribe's governing body and (b) the tribe has a self-determination agreement in place with the Indian Health Service of the United States Department of Health and Human Services so that payment for enrolled members of a federally recognized Indian tribe who are served at such facility will be made with one hundred percent federal reimbursement.

Sec. 32. Section 71-7608, Revised Statutes Supplement, 2007, as amended by section 7, Legislative Bill 606, One Hundredth Legislature, Second Session, 2008, is amended to read:

71-7608 The Nebraska Tobacco Settlement Trust Fund is created. The fund shall include any settlement payments or other revenue received by the State of Nebraska in connection with any tobacco-related litigation to which the State of Nebraska is a party. The Department of Health and Human Services shall remit such revenue to the State Treasurer for credit to the fund, except that ~~(1) of such revenue received on or after April 1, 2005, two million five hundred thousand dollars shall be credited annually to the Tobacco Prevention and Control Cash Fund. Beginning in July 2008 and (2) within seven days after the effective date of this act, and on July 1 of each year thereafter, on or before July 25, five hundred thousand dollars shall be credited~~ transferred from the Nebraska Tobacco Settlement Trust Fund to the Stem Cell Research Cash Fund created under section 5 of this act. Subject to the terms and conditions of such litigation, money from the Nebraska Tobacco Settlement Trust Fund shall be transferred to the Nebraska Health Care Cash Fund as provided in section 71-7611. Any money in the Nebraska Tobacco Settlement Trust Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 33. Section 81-653, Reissue Revised Statutes of Nebraska, is amended to read:

81-653 ~~It is the intent of sections 81-653 to 81-661~~ (1) Sections

81-653 to 81-660 and section 40 of this act shall be known and may be cited as the Brain Injury Registry Act.

(2) The intent of the Brain Injury Registry Act is to require the establishment and maintenance of a brain injury registry in and for the State of Nebraska.

(3) The purpose of the brain injury registry is to provide a central data bank of accurate, precise, and current information which will to assist in the statistical identification and of persons with brain or head injury, planning for the treatment and rehabilitation of such persons, and with brain or head injury and in the prevention of such injury.

Sec. 34. Section 81-654, Revised Statutes Supplement, 2007, is amended to read:

81-654 For purposes of sections 81-653 to 81-661, the Brain Injury Registry Act:

~~(1) Brain injury registry shall mean the system of reporting established by sections 81-653 to 81-661 in which cases of brain or head injury in this state are reported and recorded in order to achieve the goals of statistical identification and planning for treatment and rehabilitation of persons with brain or head injury and prevention of such injury;~~

~~(2) (1) Brain or head injury shall mean means clinically evident neurotrauma resulting directly or indirectly from closed or penetrating brain or head trauma, infection, febrile condition, anoxia, vascular lesions, toxin, or spinal cord injury, not primarily related to congenital or degenerative conditions, chemical dependency, or aging processes, which impairs mental, cognitive, behavioral, or physical functioning; and~~

~~(3) (2) Department shall mean means the Department of Health and Human Services.~~

Sec. 35. Section 81-655, Reissue Revised Statutes of Nebraska, is amended to read:

81-655 The department shall establish and maintain a central registry the brain injury registry. The registry shall consist of information concerning persons with brain or head injury that occurs within the state. The registry shall include such information as , which information the department deems necessary and appropriate for the statistical identification and of persons with brain or head injury, planning for the treatment and rehabilitation of such persons, with brain or head injury and the prevention of such injury. Any information released from the registry shall be disclosed as Class I, Class II, and Class IV data as provided in sections 81-663 to 81-675.

Sec. 36. Section 81-656, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-656 In order to implement the intent and purposes of ~~section 81-653,~~ the Brain Injury Registry Act, the department shall:

(1) Adopt and promulgate necessary rules and regulations, including to carry out the act, including, but not limited to, a uniform system of classification of brain or head injury which is consistent with medically and clinically accepted standards and definitions for use in reporting by treating medical personnel and hospitals. The In adopting and promulgating such rules and regulations, the department shall be guided by the standards and definitions of the International Classification of Disease, Clinical Modification Coding System of the World Health Organization; and

(2) Execute any contracts that the department deems necessary to carry out the act; and

~~(2) (3) Comply with all necessary requirements in order to obtain funds or grants.~~

Sec. 37. Section 81-657, Revised Statutes Supplement, 2007, is amended to read:

81-657 (1) If a person with brain or head injury is ~~not admitted to a hospital within the state but is treated in this state in the office of a physician or psychologist licensed under the Uniform Credentialing Act,~~ to practice in this state but is not admitted to a hospital within this state, the treating physician or psychologist shall provide a report the brain or head of such injury to the department within thirty days after such treatment and identification of the person sustaining such injury. Each treating physician or psychologist shall be required to report each brain or head injury only one time.

(2) Each hospital and each rehabilitation center located within a hospital in the State of Nebraska shall annually report to the department a brain or head injury which results in admission or treatment. If a person with brain or head injury is admitted to or treated at a hospital or a rehabilitation center located within a hospital in this state, such hospital or rehabilitation center shall provide a report of such injury to the

department within thirty days after the discharge of such person from the hospital or rehabilitation center.

(3) ~~The report~~ A report provided under this section shall contain the following information about the person sustaining the who has sustained the brain or head injury, if known:

- (a) Name;
- ~~(b) Social security number;~~
- ~~(c) (b) Date of birth;~~
- ~~(d) (c) Gender;~~
- ~~(e) (d) Residence;~~
- ~~(f) (e) Date of the injury;~~
- ~~(g) (f) Final diagnosis or classification of the injury according to the International Classification of Disease, Clinical Modification Coding System of the World Health Organization, as adopted by the department;~~
- ~~(h) (g) Cause of the injury and, if practicable, whether the injury resulted from an accident involving the use of alcohol;~~
- ~~(i) (h) Place or site of occurrence of the injury;~~
- ~~(j) (i) Identification of the reporting source;~~
- ~~(k) Dispensation (j) Disposition upon discharge;~~
- ~~(l) (k) Payor source; and~~
- ~~(m) (l) Any additional information the department can demonstrate is reasonable in order to implement the purposes stated in section 81-653, deems necessary and appropriate to carry out the purposes of the Brain Injury Registry Act.~~

Sec. 38. Section 81-659, Reissue Revised Statutes of Nebraska, is amended to read:

81-659 No patient-identifying data as defined in section 81-664 shall be ~~divulged,~~ disclosed, made public, or released by the department to any public or private person or entity. All other data obtained from medical records of persons sustaining brain or head injury is for the confidential use as Class I, Class II, or Class IV data of the department and the private or public persons or entities that the department determines may view such records as provided in sections 81-663 to 81-675.

Sec. 39. Section 81-660, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-660 No physician, psychologist, hospital, or administrator, officer, or employee of a hospital or medical professional who is in compliance with sections 81-657 and 81-663 to 81-675 shall be civilly or criminally liable for ~~divulging~~ disclosing the information required ~~pursuant to~~ under section 81-657.

Sec. 40. Within thirty days after receiving a report of brain or head injury, the department shall provide relevant and timely information to the person with such injury to assist such person in accessing necessary and appropriate services relating to such injury. The department may develop such information or utilize information developed by other sources and approved by the department. The department may provide such information directly or contract with an appropriate entity to provide such information. Costs associated with providing such information shall be paid from cash funds, gifts, and grants. No General Funds shall be used to pay such costs. Funds received by the department for the payment of such costs shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. The department shall not be required to provide information under this section if sufficient funding is unavailable.

Sec. 41. Section 81-664, Revised Statutes Supplement, 2007, is amended to read:

81-664 For purposes of sections 81-663 to 81-675:

(1) Aggregate data means data contained in the medical record and health information registries maintained by the department which is compiled in a statistical format and which does not include patient-identifying data;

(2) Approved researcher means an individual or entity which is approved by the department pursuant to section 81-666 to obtain access to data contained in the medical record and health information registries maintained by the department to assist in the scientific or medical research for the prevention, cure, or control of a disease or injury process;

(3) Case-specific data means data contained in the medical record and health information registries concerning a specific individual other than patient-identifying data;

(4) Department means the Department of Health and Human Services;

(5) Medical record and health information registry means the system of reporting certain medical conditions occurring in this state, as prescribed by law, which are reported and recorded in order to achieve the goals of prevention, cure, and control through research and education, and

includes the birth defects registry established in section 71-646, the cancer registry established in sections 81-642 to 81-650, the brain injury registry established in ~~sections 81-653 to 81-661~~, the Brain Injury Registry Act, and the Parkinson's Disease Registry established in the Parkinson's Disease Registry Act;

(6) Patient-identifying data means the patient's name, address, record number, symbol, or other identifying particular assigned to or related to an individual patient; and

(7) Research means study specific to the diseases or injuries for which access to data is requested and which is dedicated to the prevention, cure, or control of the diseases or injuries.

Sec. 42. Sections 1, 15, 16, 19, 20, 21, 22, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 45, and 47 of this act become operative three calendar months after the adjournment of this legislative session. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 23, 24, 26, 27, 28, and 43 of this act become operative on December 1, 2008. Sections 14 and 46 of this act become operative on July 1, 2008. The other sections of this act become operative on their effective date.

Sec. 43. Original sections 38-101, 38-711, 38-1901, 38-1902, 38-1907, 38-1915, 38-3321, 71-3503, 71-3505, 71-3507, 71-3508.03, and 71-3517, Revised Statutes Supplement, 2007, are repealed.

Sec. 44. Original section 71-5830.01, Reissue Revised Statutes of Nebraska, sections 71-810 and 71-818, Revised Statutes Cumulative Supplement, 2006, section 71-3519, Revised Statutes Supplement, 2007, and section 71-7608, Revised Statutes Supplement, 2007, as amended by section 7, Legislative Bill 606, One Hundredth Legislature, Second Session, 2008, are repealed.

Sec. 45. Original sections 30-2483, 81-653, 81-655, and 81-659, Reissue Revised Statutes of Nebraska, sections 68-909, 81-656, and 81-660, Revised Statutes Cumulative Supplement, 2006, and sections 68-949, 71-1910, 71-2619, 71-2620, 71-2621, 71-5306, 81-654, 81-657, and 81-664, Revised Statutes Supplement, 2007, are repealed.

Sec. 46. Original section 43-4001, Revised Statutes Supplement, 2007, is repealed.

Sec. 47. The following sections are outright repealed: Sections 71-545, 71-546, 71-547, 71-548, 71-549, 71-550, and 81-661, Revised Statutes Supplement, 2007.

Sec. 48. Since an emergency exists, this act takes effect when passed and approved according to law.